

THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

2010 APR 23 PM 2:36

DB PRIVATE WEALTH MORTGAGE LTD,

Case No. 2:09CV887 DS

Plaintiff,

Case No. 2:09CV999

(Consolidated)

vs.

JUSTIN MARTY,

Defendant and Counterclaim
Plaintiff,

MEMORANDUM
DECISION

vs.

DB PRIVATE WEALTH MORTGAGE,

Counterclaim Defendants,

vs.

SHERILYN OLSEN,

Third Party Defendant.

I. INTRODUCTION

On January 28, 2010, the court granted Plaintiff's Motion for Partial Summary Judgment as to liability in this case, and dismissed the counterclaim with prejudice. In doing so, the court held that Mr. Marty had not provided any evidence to support his claims, and that all of his arguments were based on speculation. Although Sherilyn Olsen was not a party in the Eviction Action, she was named as a Counterclaim Defendant in the Counterclaim to that action. She was also named as a Third Party Defendant in Mr. Marty's Counterclaim and Third Party Complaint in the Deficiency Action. The allegations against Olsen in the Counterclaim and the Third Party

Complaint are identical to the allegations against DB Mortgage. Olsen has now filed this Motion to Dismiss Counterclaim and Third Party Complaint Against Sherilyn A. Olsen. The Court hereby grants the Motion to Dismiss.

II. ANALYSIS

The only allegations against Olsen are that she is an attorney licensed in Utah, that Marty demanded records from her which were not provided, that, acting on behalf of DB Mortgage, she noticed and conducted a foreclosure sale of the property, and that the foreclosure sale was without authority and is void. *See*, ¶¶ 3, 19, 20, 21 and 35 of Counterclaim and of Third Party Complaint.

The actions alleged against Olsen are contained within the actions alleged against DB Mortgage. None of the allegations against Olsen are new or different. The January 28, 2010 Memorandum Decision adjudicates all claims against Olsen.


III. CONCLUSION

For the reasons stated above, the Counterclaim and Third Party Complaint against Sherilyn A. Olsen are hereby dismissed on the merits with prejudice.

SO ORDERED.

DATED this 28th day of April, 2010.

BY THE COURT:


DAVID SAM
SENIOR JUDGE
U.S. DISTRICT COURT